

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

AARON M. GRAY,

Petitioner,

: Case No. 2:24-cv-4016

- vs -

District Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

MATTHEW J. LUTZ,

:

Respondent.

DECISION AND ORDER

This habeas corpus case, brought *pro se* by Petitioner Aaron Gray pursuant to 28 U.S.C. § 2241, is before the Court on a number of motions filed by Petitioner which are decided as follows:

1. Second Motion for a change of venue of his Muskingum County criminal case (ECF No. 9). The Motion is DENIED. Petitioner gives no constitutional reasons why his case cannot be tried in Muskingum County and this habeas court is limited to considering constitutional claims. Moreover, for the reasons spelled out in more detail in the pending Report and Recommendations, Petitioner has not yet exhausted any available state court remedies he may have. The Motion is DENIED for the same reasons the prior Motion for Change of Venue (ECF No. 5) was denied.
2. Motion Detailing Service of Indictment Untimely Served (ECF No. 10). The Court is uncertain what relief Petitioner is seeking in this Motion. He cites Ohio Revised Code § 2941.49 about service of an indictment issued by a county grand jury. This Court cannot

in a habeas corpus action enforce any state procedural rule about service of indictments.

Also it appears very likely that Ohio Revised Code § 2941.49 has been superseded by Ohio R. Crim. P. 9 by virtue of the Modern Courts Amendment. In any event the Motion is DENIED.

3. Motion for Purporting [sic] An Affirmative Defense (ECF No. 11). Regardless of the label on this Motion, the body of the Motion asks this Court to arrest the judgment in Petitioner's state court criminal case. The Motion is DENIED because (1) there is as yet no judgment in that case and (2) this Court's authority over any judgment will occur only when Petitioner has exhausted his state court remedies.

October 21, 2024.

s/ Michael R. Merz
United States Magistrate Judge